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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO. 172 OF 2006

Commissioner of Central Excise,
Raigad. ... Appellant

Versus

M/s. Kopran Ltd. & Anr. Mahad ... Respondents

Mr. M.R. Chaudhari i/by T.C. Kaushik for the Appellant.

Mr. P.K. Shetty for the Respondents.

CORAM: F.I. REBELLO &
J.P.DEVADHAR,JJ.
DATED: 19TH JULY,2007

P.C.:

. The Commissioner of Central Excise (Adj), Mumbai by his order dated 22.3.2005 held that the Petitioner was entitled to MODVAT credit for the particular amount and disallowed some other amounts based on the reasons recorded in the order. Respondents aggrieved by the said order, preferred the appeal before the Customs Excise and Service Tax Appellate Tribunal, Mumbai who by the impugned order dated 9.8.2005 reversed the order of the Assessing Officer and allowed the appeal applying the ratio of the Judgment of the Supreme Court in Samtel India Ltd. Vs. C.C.E. Jaipur 2003 (155) E/;/T/ 14 (S.C.) as also the judgment in Eicher Motors Ltd. Vs. Union of India 1999 (106) E.L.T. 3 (SC). On

the perusal of the impugned judgment, we do not find that the learned tribunal has given any reasons for not agreeing with the findings of fact recorded by the Assessing Officer and has merely applied the ratio of the Judgment. In our opinion, the tribunal was bound to address itself to the impugned order of the Assessing Officer and thereafter on the facts as established to apply the law. Considering the above, the impugned order of the tribunal is set aside and the matter is remanded back to the tribunal for consideration de novo according to law. Appeal allowed accordingly. No order as to costs.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**